

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

UNITED STATES OF AMERICA,)	
)	
v.)	CRIMINAL INDICTMENT
)	
)	
ALLAN B. BAITCHER, ET AL)	No. 1:11-CR-536
)	
Defendants.)	

**DEFENDANT BAITCHER’S MOTION FOR INSPECTION AND
INDEPENDENT EXAMINATION OF EVIDENCE**

COMES NOW, ALLAN B. BAITCHER, Defendant herein, and files this Motion for Inspection and Independent Examination of Evidence. In support herein, Defendant shows as follows:

1.

Defendant Baitcher and his two Co-Defendants are charged with conspiracy and wire fraud relating to an alleged scheme to defraud individuals who purchased what they believed to be authentic Tiffany lamps, when the lamps were counterfeit reproduction lamps. The Government alleges in Count One that the Defendants defrauded at least 19 victims and that the fraud scheme involved, upon information and belief, more than 50 lamps.

2.

The Government alleges that counterfeit reproduction lamps were sold to the following individuals identified in the Indictment:

Purchaser Identification	Number of lamps
T.W. and B.W	Nine (9)
G.P	One (1)
D.R.	Two (2)

3.

Federal Rule of Criminal Procedure 16(a)(1)(E) states:

Upon a defendant's request, the government must permit the defendant to inspect and to copy or photograph books, papers, documents, data, photographs, **tangible objects**, buildings or places, or copies or portions of any of these items, if the item is within the government's possession, custody, or control and:

- (i) the item is material to preparing the defense;
- (ii) the government intends to use the item in its case-in-chief at trial; or
- (iii) the item was obtained from or belongs to the defendant.

4.

To date, the Government has made available to Defendant approximately twelve (12) lamps or parts thereof.

5.

To the extent that the Government intends to assert that “[t]he defendants defrauded at least 19 victims,” whether in the Government’s case in chief, rebuttal or as 404(b) evidence, Defendant would be entitled to inspect, examine and submit to independent testing all lamps claimed to be counterfeit reproduction lamps. Examination of these other claimed counterfeit reproduction lamps is material to preparation of Defendant’s defense, including the filing of pretrial motions. To deny Defendant this right, would be a violation of his Due Process Rights as guaranteed by the U.S. Constitution.

WHEREFORE, Defendant requests that the Government make available to the Defendant for inspection and independent testing any and all lamps claimed to be counterfeit reproduction lamps which were sold by Defendant or a Co-Defendant. Alternatively, should Defendant not be permitted to examine or submit these other lamps for independent testing, then Defendant requests that this Court bar the Government from use of or reference to these lamps at trial or any proceeding, for any purpose otherwise allowed under the law.

This 27th day of January, 2012.

Respectfully submitted,

S/ *Brian Steel*

BRIAN STEEL

GA Bar No.: 677640

Attorney for Defendant Baitcher

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served a copy of the within and foregoing **DEFENDANT BAITCHER'S MOTION FOR INSPECTION AND INDEPENDENT EXAMINATION OF EVIDENCE** upon co-counsel, counsel for co-defendants and opposing counsel by filing same through ECF.

This 27th day of January, 2012.

Respectfully submitted,

*S/ Brian Steel*_____
BRIAN STEEL
GA Bar No.: 677640